

STAMPUR & ROTH
ATTORNEYS AT LAW

WILLIAM J. STAMPUR
JAMES ROTH

299 BROADWAY, SUITE 800
NEW YORK, N.Y. 10007

(212) 619-4240
FAX (212) 619-6743

August 25, 2022

By ECF

Honorable Andrew L. Carter, Jr.
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

USDC SDNY
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DATE FILED: 8/31/22

Re: *United States v. Hector Joel Duprey-Vasquez, et al.*, 18 Cr. 18 (ALC)

Dear Judge Carter:

I write in response to the Government's reply (*See* Dkt. No. 234) to Mr. Duprey Vasquez's request for a *Fatico* hearing (*See* Dkt. No. 231). To clarify our request, it was not intended to challenge the Guideline role ascribed to Mr. Duprey-Vasquez in his plea agreement and thus was not a breach of his plea agreement. Indeed, no role was assigned to Mr. Duprey-Vasquez in the plea agreement. If the request was not clear, it was inadvertent. The *Fatico* is requested to put the Government to its burden of proof in respect to Mr. Duprey-Vasquez's culpability in relation to that of his co-defendants.

We intend to advance 3553(a) factors which is permitted under the plea agreement in seeking a downward variance. Mr. Duprey-Vasquez was optimistic that he would be offered a *Fatico*. Your Honor's comments during the *ex parte* colloquy with him on March 3, 2022. (*See* minutes attached as Exhibit A).

"...So you can have a *Fatico* hearing on certain issues that would be relevant to sentence, but whether or not you're responsible for the crime is not one of them. You can have a hearing regarding perhaps your relative culpability with someone else, but it doesn't give you your please back, which is what it sounds like you want." at p. 9.

For the above reasons, we respectfully request a *Fatico* hearing.

Thank you for your attention to this matter.

Very truly yours,

James Roth
James Roth, Esq.

The application is **GRANTED**. A *Fatico* hearing is set for 10/19/22 at 2:00 p.m. The 9/14/22 sentencing is adjourned without a date. So Ordered.

cc: AUSA Julianna Murray (By ECF)
AUSA Mollie Bracewell (By ECF)

JR/Duprey-Vasquez_Ltr to Ct_Case Fatico Hearing

Andrew L. Carter
8/31/22